

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

THOMAS DAVIS III, et al.,

Plaintiffs,

vs.

WESTGATE PLANET HOLLYWOOD LAS  
 VEGAS, LLC, et al.,

Defendants.

Case No. 2:08-cv-00722-RCJ-PAL

**ORDER**

(Mtn to Strike - Dkt. #492)

This matter is before the court on Plaintiffs' Motion to Strike Defendants' Supplemental Expert Report of May 11, 2011, and Exclude Testimony (Dkt. #492).

The parties have been engaged in settlement negotiations since at least June 2011 and have filed various stipulations to extend time to respond to dispositive motions and to continue the trial of this matter. *See generally* Dkt. ##493, 495, 498, 499, 507, 508, 512. On October 31, 2011, the parties filed a Status Report and Second Joint Motion to Stay all Proceedings and Deadlines (Dkt. #512). The Status Report advised the court that the parties' proposed settlement is contingent upon Defendants obtaining a restructuring loan. The parties represent that the impediment to settlement is not the parties' inability to reach mutually agreeable settlement terms, but rather, is Defendants' inability to pay any settlement because of their current financial condition. *Id.* On November 8, 2011, the district judge held a hearing on the parties' Second Joint Motion to Stay and ordered that this matter be stayed for an additional ninety days and that an Order to Show Cause will issue if the parties fail to complete settlement of the case. *See* Order, Dkt. #515.

Accordingly,

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1           **IT IS ORDERED** that Plaintiffs' Motion to Strike (Dkt. #492) is DEEMED WITHDRAWN.  
2 In the event the parties are unable to consummate a settlement of this matter, they need only file a  
3 notice with the court requesting the Motion to Strike be reinstated.

4           Dated this 17th day of November, 2011.

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8 PEGGY A. LEEN  
9 UNITED STATES MAGISTRATE JUDGE  
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